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10/006,635	11/08/2001	Sam S. Vacek	VAC-1001-US	1869

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EXAMINER

VARNER, STEVE M

ART UNIT PAPER NUMBER

3635

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/006,635

Applicant(s)

VACEK, SAM S.

Examiner

Steve M Varner

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-5,7-21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5,7-21 and 23-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

The Finality of the 6/2/04 Action is withdrawn and this Non-final action is issued.

Claim 1, 6, 22, is cancelled.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the air circulation system outside the structure must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-5, 26, are rejected under 35 U.S.C. 102(b) as being anticipated by Forcier.

Regarding claim 5, Forcier shows at least one outer wall, an internal wall (14) section and an external wall (14) section. Forcier shows an airflow passage between the internal wall section (14) and the external wall section (14) said air flow passage channeling an air flow in-between and substantially parallel to the internal wall section and the external wall section and an air circulation system (48, 42, 53, 28) within the structure providing the air flow through the air flow passage to inhibit moisture on the internal wall section, wherein the air circulation system within the structure creates a positive air pressure in at least a portion of the structure (in 2) to cause at least some of the airflow to flow through the air flow passage (Fig. 1)

Regarding claim 2, Forcier shows the air provided is conditioned (conditioned by 55) (Fig. 1).

Regarding claim 3, Forcier shows an attic (34) that is in air communication with the airflow passage (48). (Fig. 1)

Regarding claim 4, Forcier shows a roof or ceiling (34). (Fig. 1)

Art Unit: 3635

Regarding claim 26, Forcier shows an internal wall section (14) and an external wall section (14) defining an air flow passage therebetween, channeling an air flow inbetween and substantially parallel to the internal wall section and said external wall section, and an air circulation system (48, 42, 53, 28) at least in part within the structure providing the air flow through the air flow passage to inhibit moisture on the internal wall section, wherein the air circulation system creates a positive air pressure in at least a portion of the structure (in 2) to cause at least some of the air to flow through the air flow passage (Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-13, are rejected under 35 U.S.C. 103(a) as being unpatentable over Forcier in view of Ojala.

Regarding claims 7-13, Forcier shows the basic claimed structure. Forcier shows an outer wall and a ceiling or roof (34). It is obvious that there are more than one outer wall forming an enclosed structure since this is a building construction. Forcier does not show the external wall section including an insulating layer, a weather-resistant layer outside of the insulating layer, a sheath inside the insulating layer, the internal section including a liquid barrier, a wall framing system, a first sheathing

Art Unit: 3635

between the liquid barrier and the wall framing system, and a second sheathing inside of the wall framing system.

Ojala shows the external wall section (88) including an insulating layer (94) and a weather-resistant layer outside of the insulating layer (88). Ojala shows a sheath (70) inside the insulating layer (88). Ojala shows the internal section (60) including a liquid barrier (92), and a wall framing system (60). A first sheathing between the liquid barrier and the wall framing system, and a second sheathing inside of the wall framing system are well known in the art. (Fig. 3, 4)

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use the wall system as in Ojala and known in the art in the structure of Forcier. The wall system of Ojala protects from heat, cold, and moisture as well as gives structural support. These features would be obvious in the structure of Forcier to protect from heat, cold, moisture, and give the room support.

Claims 14-25. are rejected under 35 U.S.C. 103(a) as being unpatentable over Forcier in view of Tedman et al.

Regarding claims 14-19, Forcier shows the basic claimed structure. Forcier does not show a moisture sensor in the airflow passage with a controller and a circuit to interface with the sensor, and a processor. Tedman et al. shows a moisture sensor in the airflow passage with a controller (Abstract). Interfacing circuits and a processor are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use the system of Tedman to control the humidity in the airflow passage in Forcier. This would expedite drying.

Art Unit: 3635

Forcier shows positive pressure in the exhaust structure (2) in the foundation.

(Fig. 1)

Regarding claims 20-25, the claimed methods are the obvious method for inhibiting moisture accumulation using Forcier's modified Building Construction.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forcier in view of Stein/Reynolds.

Regarding claim 27, Forcier shows the basic claimed structure. Forcier does not show an air circulation system outside the structure. Stein/Reynolds shows an air circulation system outside the structure (Fig. 7.46, 7.8, Page 382, (e)) with an air conduit (Point B, Fig. 7.46) supplying air from the air circulation system to the structure. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use an air circulation system as in Stein/Reynolds in the structure of Forcier to cool the entering air on the roof.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2-27 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moras shows a composite vapor barrier panel. Tuggle shows a dryer vent connection. Roberts et al. shows a modular wall and ceiling system.

### ***Conclusion***

Art Unit: 3635

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.



SV  
October 15, 2004



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600